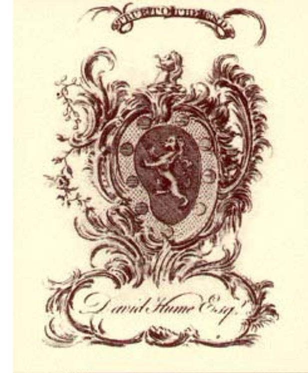

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HUME'S JUSTICE AS A COLLECTIVE GOOD

David Hume would probably regard his 'system of morals' as the most important part of his treatise of human nature. Yet his moral theory, particularly his theory of justice, continues to baffle commentators. Many have found it difficult to follow his line of reasoning to the conclusions that it is an artificial virtue to obey the rules of justice, and that such rules command our respect even though we do not have any natural tendencies to respect them. The most troubling claim seems to be the claim that justice is ultimately based on self-interest, the motive that, on the surface at least, tends to induce people to ignore justice, particularly justice of the kind Hume is talking about. Jonathan Harrison,[1] for instance, goes through a series of examples in an attempt to get close to Hume's meaning. In this paper I wish to argue that by justice Hume has in mind something very much like what modern economists call collective good. In the economic theory of public finance, which was born in the late Fifties, a distinction is made between collective goods and private goods. I wish to argue that this distinction can be employed to elucidate the nature of Hume's concept of justice, as well as to pinpoint the source of the moral force making justice a virtue rather than just a matter of prudence.

I

Most goods (and services) bought and sold in any economy have the following characteristics. First, as one person purchases (and consumes) a quantity of a particular good, there is less of it available for others to consume (that is, before more is produced). If the market is cleared (*i.e.* all that is produced is bought and sold), the total production or supply (X_T, say) is the sum of individual purchases ($X_T = X_A + X_B +$ etc.).

Second, the benefit of consumption is confined largely to the person who consumes the good. The overall benefit is said to be divisible among consumers. Third, the cost of production is also divisible and can be calculated for each unit of the good (which is not to say that such calculation can be easily or accurately carried out). Goods such as bread and butter, shoes and ships and sealing wax, cabbages, and so on, are of this nature.

There are also certain goods and services which do not have these characteristics. John Stuart Mill was actually the first to notice the fact that a good such as a lighthouse, once provided, confers benefits equally on all "consumers" (i.e. ships that navigate by it). Unlike the goods in the class above, the amount of service generated by a lighthouse does not diminish as more of it is "consumed." The total X_T available is actually what is available for each and every consumer, so that $X_T = X_A = X_B$ = etc. Once available, the benefit is not confined to any one user: to make it available to one user is to make it available to other users. The overall benefit is not divisible among consumers. Finally, it is often meaningless to speak of units of the good, hence meaningless to speak of cost per unit. Costs are also not divisible. In this class of goods we can include, in addition to the lighthouse, national defense, clean air, pleasant surroundings, etc. In the economic literature of public finance, these goods are referred to as collective goods (and those above, private goods).[2]

The nature of collective goods poses a number of problems. One is that it is difficult to extract payments from consumers, once the good has been provided. Since it is difficult, if not impossible, to exclude those who refuse to pay from consuming the good or service, it is unrealistic to expect any payments, or full payments. This being so, no private entrepreneur would be willing to produce collective goods. Generally,

they will not be provided unless there is some collective effort, hence the name <u>collective goods</u>. The second problem, as economists see it, is to work out the optimum level of production. This turns out to be theoretically simple, assuming that potential consumers truly reveal their preferences for the goods, and their willingness to pay for them. In practice, of course, this requirement is unlikely to be met. The usual policy prescription is, therefore, that the government take over the provision of collective goods, approximate the total benefits, and adjust the level of provision via some technique such as cost-benefit analysis. Taxes are then collected to pay for these goods. This is why most collective goods turn out to be <u>public goods</u> in the sense of being publicly funded and provided, and made available "free of charge" (<u>i.e</u>. free of <u>direct</u> charge).

The main point about collective goods is that their provision depends on the co-operation of all individuals. If all individuals are perfectly co-operative then government intervention is not necessary. Where government intervention is necessary, and it is so in most cases as I have said (in the case of national defense, it is also necessary for security reasons), it is still true that there is collective effort involved in the provision of public goods. Thus, collective effort is required not just to establish and maintain a government, but also to discharge the responsibility of paying tax. Since individuals' pursuing their own interests is what makes the ordinary market mechanism work, such mechanism cannot be relied upon to provide collective goods. Yet, the provision of collective goods will make all, or at least a very large proportion, of the consumers better off. So without a collective effort of some kind, all, or a very large proportion, will be worse off that what could have been. If we cannot be perfectly co-operative, the least we have to do, in order

to improve the economic well-being of the majority, is to pay our share of taxation so that certain goods can be provided. It is recognized at the same time that it is very easy for selfishness either to wreck the whole system of public provision, or to undermine it to the extent that the level of provision is sub-optimal. Selfish efforts to avoid or evade paying tax, or generally to take a free ride on public goods and other collectively-supplied goods, will have this effect. The problem of the free-rider is well recognized in the literature of public finance.[3] What is interesting is that Hume could be said to have precisely the problem of the free-rider in mind when he talks about justice and the duty of performing just actions. Hume could be said to have anticipated the economic analysis of collective goods.

II

It may be well to note at the outset that Hume's notion of justice is not quite what we commonly take it to be, that is, having to do with 'the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation.'[4] Commonly, we also go on to characterize the way rights and duties are distributed, and advantages determined, such as building into it the requirement of 'the twin virtues of equity and impartiality.'[5] Hume, by contrast, takes justice to be exclusively in relation to <u>property</u> or <u>possessions</u>. Further, he distinguishes between possessions of the mind (<u>e.g</u>. our thoughts), possessions of the bodily kind (<u>e.g</u>. our limbs), and material possessions. Hume then argues that we can be absolutely certain about the first (that is, they cannot be stolen from us), that we need not worry about the second because they are of no use to others (Hume did not know about organ transplantation), and that it follows that justice has to do only with

material possessions (Treatise III ii 2, Selby-Bigge edition, pages 487-8, hereafter T). For Hume, the rules of justice are the rules that determine the stability of possessions, including the rules which give rise to ownership and the rules which govern transference. Anything that undermines the stability of possessions, such as theft, is therefore unjust. In his Enquiry Concerning Human Understanding, Hume defines injustice explicitly as 'a violation of property' (EHS 163). Justice, for Hume, is observation of the rules designed to promote the stability of property. Just actions are those that are in conformity with those rules.

According to Harrison, 'Hume uses the word "justice" to include rules about promising, chastity and modesty, and polite behaviour' (page 33). This, I believe, is incorrect. While the sections on promise *(Section 5) and on chastity and modesty (Section 12) are* included in Part ii of Book III, the title of which is Of Justice and Injustice, we notice that Part ii does not include a discussion of polite behaviour, but includes a discussion of other subjects, such as civil allegiance. What the rules of justice have in common with rules concerning promising, chastity and modesty, and to some extent polite behaviour, is that they are all rules designed to promote 'the peace and security of human society' (T 526), or 'the general interests of society' (T 570). The rules of justice serve the same function as those other rules, but they are not to be conflated with them. Justice, for Hume, has to do only with material possessions.

Being a naturalist, Hume is concerned to found his philosophy upon natural principles. Hume clearly thinks that the most powerful of such principles is self-interest. But the passion of self-interest can produce different kinds of action. In unthinking persons, it tends to make them ignore the interests of

others, violating their property, and even committing physical violence against them. This is the sort of behaviour that would prevail in the state of nature. Hume goes much further than Hobbes in his negative assessment of the state of nature. While Hobbes thinks that life in such state would be brutish, nasty and short, Hume thinks that ''tis utterly impossible for men to remain any considerable time in that savage condition' (T 493, emphasis mine), that, without society, ''tis utterly impossible for human nature ever to subsist' (T 569, emphasis mine). But for society to exist, Hume believes, there has got to be among other things a respect for others' property, or justice in Hume's terminology. Without society, human existence is impossible, and any expression of self-interest is impossible. So we arrive at an apparent paradox: for self-interest to express itself, it has to curb itself. For only by curbing self-interest, or redirecting its force towards just actions and away from the naturally selfish actions, can there be a society, an avoidance of the savage condition of the state of nature. Only by curbing self-interest can there be an environment in which self-interest can be best fostered. In Hume's notion of justice, then, there is a kind of tension between the natural expression of self-interest and the need to restrain it for the interest of the society (which in turn serves self-interest best). This same tension exists in the provision of collective goods. I move on now to a discussion of the parallel between the two cases.

III

Justice as Hume characterizes it resembles a collective good (although not a good in the sense of having some physical characteristics, or in the sense that costs can be reckoned in dollars and cents). Compared with justice, other virtues are like private

goods (again, not goods in the sense that there are physical characteristics, or financial costs involved). The discussion in Section I above could be applied to show that, for instance, private benevolence would be a private good. In a sense, my private benevolence can be added to yours, and the total benevolence is the sum of all private levels of benevolence. This parallels the first characteristic of a private good discussed above. Also, the benefit of benevolence (to the giver, ignoring the benefit to the receiver) is confined to the benevolent person and does not spill over to others (again, ignoring the receiver). Thus , if I give charity, I alone derive satisfaction from the act; someone else (who is not the receiver) does not share in that satisfaction. Of course, other people may be pleased that I am benevolent, but that is a different matter, just as you may be pleased that I enjoy my food, a private good, the benefit of which is mine alone. Again, as in the case of private goods such as shoes and ships and sealing wax, the benefit of benevolence in terms of the satisfaction it gives to benevolent persons is divisible and largely confined to the agent concerned. Finally, in so far as there are costs involved in being benevolent, the costs are also divisible and confined to the benevolent person, as in the case of ordinary private goods. We expect the agent to weigh the costs against the expected satisfaction in deciding whether to be benevolent, and by how much, in much the same way as weighing the cost of, say bread, against the benefit of consuming it.

Justice, on the other hand, is not like private benevolence. The benefits of just actions, according to Hume, are the stability and peace of society. There is an element of private satisfaction in being just, but even that satisfaction can only be had if just acts have their proper effects, namely peace and stability. Over

and above this satisfaction, the point of being just is the peace and stability of society. Here, we may observe that one person's enjoyment of peace and stability does not reduce the total benefits to others. What there is for one person to enjoy, call it X_T, is available for all to enjoy, so that $X_T=X_A=X_B=$ etc. The benefits of justice are not confined to any particular individual, but are shared among all individuals. And because the total benefits cannot be sliced up into individual portions, we cannot speak of the costs associated with each portion, nor the apportioning of costs to each participant on the basis of the number of portions consumed or enjoyed. The indivisibility of costs is somewhat stricter in the case of justice than in the case of an ordinary collective good such as national defense. In the latter we can at least imagine each person paying according to how much he or she thinks national security is worth to him or her. But since justice cannot be paid for in dollars and cents, even this theoretical division of costs is not available. There is only one payment, and it applies to all equally, and that is to observe the rules of justice.

In the case of collective goods, as economists have observed, the main practical problem arises from the tension between the public interest and the private interest. The temptation to maximize private interest is great, and it leads to the tendency to avoid paying for public goods, to take a free ride. The best outcome for me is where everyone else except me pays for national defense, where everyone else except me immunizes against contagious diseases, and so on. Likewise in the case of justice, it will be to my advantage if everyone else is just while I remain a scoundrel.

To provide collective goods at some optimal level, each one of us has to reveal the true preference for them, and to be prepared to pay according to the benefits derived. In reality, as we have seen, some

guesswork is necessary, and some coercion has to be built into the requirement that everyone pays tax. Likewise, for the interest of society, each of us has to observe the rules of justice. The trouble, and it is the same trouble as in the case of collective goods, is that the reason for such behaviour is not immediately obvious, and that there are too many other passions in us that tend to make us behave contrary to the interest of society. Also, the natural expression of self-interest, as pointed above, is contrary to the interest of society. Hume says that

> men, in the ordinary conduct of life, look not so far as the public interest, when they pay their creditors, perform their promises, and abstain from theft, and robbery, and injustice of every kind. That is a motive too remote and too sublime to affect the generality of mankind, and operate with any force in actions so contrary to private interest as are frequently those of justice and common honesty (T 481).

He goes on to say that in general, 'it may be affirm'd, that there is no such passion in human minds, as the love of mankind, merely as such....'

Hume says that 'our natural temper' and 'our outward circumstances' are 'very incommodious, and are even contrary to the requisite conjunction' (T 486), that is, the conjunction of men and women in a society. We do have a passion of generosity, and we are not as selfish as 'certain philosophers' would have us believe, but this very generosity, 'instead of fitting men for large societies, is almost as contrary to them, as the most narrow selfishness' (T 487). This is so because we are partial in our generosity: we love ourselves best, then our relations and friends, then our acquaintances, and ''tis only the weakest [of our attention] which reaches to strangers and indifferent persons' (T 488). This

'confin'd generosity' is not at all conducive to social peace and harmony.

Yet, it is through society that we benefit most, and there that the passion of self-interest and most other passions would be most fully satisfied. The same is true with collective goods: it is through collective efforts to produce collective goods that our economic well-being is maximized. As Hume sees it, social organisation is beneficial in three ways: 'By the conjunction of forces, our power is augmented: By the partition of employments, our ability encreases: And by mutual succour we are less expos'd to fortune and accidents. 'Tis by this additional force, ability, and security, that society becomes advantageous' (T 485). To obtain these benefits, we must learn to curb the natural tendencies of self-interest by redirecting its influence to actions which are in accordance with the rules of justice. Indeed, self-interest is the only motive strong enough to make us realize that the rules of justice are necessary. 'There is no passion, therefore, capable of controlling the interested affection, but the very affection itself, by an alteration of its direction' (T 492). Curbing self-interest is not an unnatural way of behaving, 'for if so, it cou'd never be enter'd into, nor maintain'd' (T 489). By restraining self-interest, we are not acting against this passion, 'since 'tis evident, that the passion is much better satisfy'd by its restraint, than by its liberty' (T 492). This account of the motive for justice applies perfectly to the case of collective goods. Here too, it is only by restraining self-interest that self-interest is best served.

Having established the rules of justice by conventions, we need to resolve to observe those rules. This is not an easy thing to do, not only because of the natural tendencies of self-interest as pointed out above, but also because the advantages of these rules are too

diffused, too distant, and occasionally contrary to other, more personal advantages. This latter effect arises mainly from the sheer numerical factor of large numbers. Because of the large number of people involved, individual actions tend to be more distant, or remote, from that common interest affecting the whole group. Where numbers are small, there is a much greater degree of interdependence; we tend to be much more aware of the effects that our actions have on others. It is easy to see group interest when the group is small. 'But when society has become numerous, and has encreas'd to a tribe or nation, this interest is more remote' (T 499). In a large group, individual actions have much less bearing on group interest. In such a situation, we do not 'so readily perceive, that disorder and confusion follow upon every breach of (society's) rules, as in a more narrow and contracted society' (Ibid.).

As group interest becomes more distant, or remote, we are much more inclined to ignore it for our own immediate advantages. In some cases also, the short-term public interest is not the same as the long-term public interest. Indeed, a single act of justice 'is frequently contrary to public interest' (T 497) in the short run. But Hume insists that this is no reason to disobey the rules. If enough of us fail to observe the rules of justice enough times, society will break down. For ''tis certain, that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual' (T 497).

In the case of collective goods, the question of numbers is also of crucial importance. When the numbers are small, there is a greater degree of interdependence, and it is much easier for co-operation to work without government intervention. To say the same thing differently, it is much more difficult to take a free

ride. Consider, for instance, a block of apartments. Suppose the apartment owners wish to build a swimming pool for the whole block, or to beautify the surrounding grounds. No single owner will be willing to foot the entire bill when the benefits spill over to the other owners. The costs may also be prohibitive for any one owner. But since the number involved is small, anyone wishing to get a free ride would have no hope of getting away with it. If all residents deem a project worthwhile, the chances are that they will co-operate and finance the project collectively. Collective goods such as these are provided without government intervention. However, as numbers increase, problems begin to emerge. Instead of an apartment block, we may think of, say, a small town. The opportunity of getting a free ride is not great, but considerably greater than before. As the size gets larger, free-riding becomes more of a possibility, and co-operation becomes more difficult. For a large nation, co-operation is practically impossible. It is this practical difficulty that turns collective goods into publicly-funded goods as we have seen.

The effect of numbers is also manifested in other areas of organized life. In a small trade union, for instance, it would be difficult for a non-unionist to derive benefits the union has fought hard for. Indeed at the beginning, a trade union would require the co-operation of every worker to get started. As the movement gathers momentum, individual actions become more distant from the common purpose. The incentive to get a free ride becomes greater.

Hume understands the effect of numbers well. He argues that in a small organisation, it is easy to see how an individual action affects the common good, and the regard for the common good is often strong enough to induce people to act properly. It is easy for every

apartment owner in the example above to see that if he or she does not co-operate, common facilities will not be built, and all will be worse off as a result. Hume says that the imposition and observance of the rules of justice 'are at first induc'd only by a regard to [the common] interest; and this motive, on the first formation of society [when numbers are small], is sufficiently strong and forcible' (T 499). But when numbers become larger, 'we may frequently lose sight of that interest' (Ibid.). Our passion for that interest becomes weaker, and can be more easily overcome by other passions the fulfilment of which could result in actions that are against the public interest.

In Treatise III ii 7, Hume actually discusses an example very much like the case of the apartment owners, and illustrates well the effect of large numbers:

> Two neighbours may agree to drain a meadow, which they possess in common; because 'tis easy for them to know each others mind; and each must perceive, that the immediate consequence of his failing in his part, is the abandoning of the whole project. But 'tis very difficult, and indeed impossible, that a thousand persons shou'd agree in any such action; it being difficult for them to concert so complicated a design, and still more difficult for them to execute it; while each seeks a pretext to free himself of the trouble and expence, and wou'd lay the whole burden on others (T 538).

Hume argues that when the numbers are small, and there is a high degree of interdependence, what we decide to do tends to be a prudential matter rather than a moral one. In the case of the apartment owners, prudence will be a sufficient motive to induce proper co-operation. In the case of a collective good such as national defense, which affects the whole nation, prudence alone is not sufficient. An individual does not see that his or her refusal to pay will undermine national security. A free

rider believes that not too many people have the same idea. Prudence, therefore, tends to induce us to take a free ride. If we do pay our fair share in this case, the motive that induces us to do so is not prudence, but something like the sense of fairness based on the realisation that by not paying we are hurting others who are willing to pay. It is a sense of fair play based on an empathy we have for others. Economists naturally have not discussed this motive. They tend to talk more in terms of coercion, of strengthening tax laws to ensure that everyone pays. Hume, on the other hand, discusses in detail this motive, and regards the empathy for others, which he calls <u>sympathy</u>, as the source of the morality of just actions. But what he has to say about sympathy applies to justice as well as to ordinary collective goods.

To understand the role of sympathy, we need to consider a distinction that Hume is at pains to make in <u>Treatise</u> III ii 1. This is the distinction between the motive, or passion, that makes a person perform an action that we judge to be virtuous, and the sense of the morality of that virtuous action. It is the former that bestows merit on the action. For instance, caring for children is virtuous because the action springs from a 'virtuous principle,' <u>viz</u>. the natural affection we have for children. However, a person may lack this motive, or passion (and 'may hate himself upon that account,' (T 479). This person may still have a sense of the morality of caring for children, and may care for children from this motive. In the case of justice, Hume argues that just actions spring not from any <u>natural</u> principle, or passion, but from an artificial passion, cultivated by education and 'the artifices of politicians.' This is why justice is an artificial virtue, not a natural one. But the distinction remains between, on the one hand, this primary (artificial) motive which Hume calls the

sense or sentiment of justice and injustice, and which makes just actions virtuous, and, on the other hand, the sense of the morality of just actions.

Now, if education is a complete success, every person will have the correct sense of justice and injustice, and will obey the rules of justice without exceptions. This would be equivalent to the situation where people truly reveal their preferences for collective goods, and are willing to pay their fair share of the costs. Indeed, this happy result could be obtained through the kind of education and the kind of 'artifices of politicians' that produce Hume's sense of justice. But if even nature cannot be counted upon to implant a common principle, such as affection for one's children, in all human beings, we cannot expect human artifices to succeed completely. Some will lack the sense of justice, just like many lack the motive for paying for collective goods. In reality, the correction for the latter is a certain degree of coercion. The law does require every taxpayer to pay tax, and does prescribe penalties for failure to do so. But Hume seems reluctant to talk about coercion and penalties. He seems to think that the sense of the morality of just actions can make up for the lack of the sense of justice. He says that there is a natural tendency to have sympathy with others, and it is this sympathy that makes us approve of just actions, seeing that they produce satisfaction in others, and disapprove of unjust actions, seeing that they produce uneasiness in others. Thus, 'the sense of moral good and evil follows upon justice and injustice' (T 499). Through sympathy with others, we acquire the sense of the morality of just and unjust actions, or the sense of the moral good and evil of justice and injustice. Through this sense, we may be motivated to perform just actions, and to avoid unjust actions, even though we lack the sense of justice and

injustice itself. Hume says that the sense of morality, 'tho' ... deriv'd from contemplating the actions of others, yet we fail not to extend it even to our own actions' (Ibid.).

We have seen that the sense of the morality of just actions is derived from sympathy. But the sense of justice and injustice itself, being merely artificial, is also based on sympathy which Hume calls 'a sympathy with public interest' (T 499-500). For without such sympathy, we cannot take too seriously an interest so distant, or remote, from personal interests, as pointed out above. And since sympathy is the source of morality, justice is wholly a moral matter, whereas other natural virtues could be just manifestations of natural principles that nature has implanted in human minds. Thus, Hume makes a distinction between a natural obligation and a moral obligation (T 498). To the extent that we have a natural affection for our children, we have a natural obligation to care for them. While caring is virtuous, it is not a moral matter for us, as we are doing it not from any moral principle but simply from a natural passion. But, as mentioned above, a person may lack this natural motive. Such a person still has a moral obligation to care for his or her children, an obligation arising out of the twin occurrence of the realisation that caring behaviour produces satisfaction, and the feeling of sympathy with those who feel this satisfaction. Thus, care for children becomes a moral matter for those who do not feel a natural affection for their children. The source of the morality of caring is the sympathy with others, arising from a contemplation of the actions of others.

In the case of justice, to the extent that the natural passion of self-interest is the original motive of justice, there is a natural obligation to be just. But self-interest is not sufficient to make people adhere

to the rules of justice, as explained above. Human artifices are required to cultivate a sympathy with the public interest. This sympathy is the foundation of the sense of justice. Should education fail, we need to rely on the sympathy that arises from observing our fellow human beings who approve of just actions and disapprove of unjust ones. Without sympathy, there is only self-interest unrestrained, and so there can be no justice. And since sympathy is the source of morality, justice is wholly a moral matter. The obligation to be just is a moral one. Indeed, the more distant, or remote the public interest is, the stronger will be the moral requirement. As numbers become larger, and individual actions become less significant, we need a stronger resolution to be just. We need a larger dose of sympathy. The moral obligation of justice becomes stricter.

What Hume says about justice applies equally to the question of the provision of collective goods. Our self-interest is best served by having collective goods provided at an optimal level. But in the situation of large numbers, the same self-interest tends to make free-riders out of us. The modern remedy is coercion. Hume's remedy is moral education. There is no reason why the latter should not work in the case of collective goods. For it can be said that there is a moral obligation to co-operate with others so that the economic production of all goods and services could be optimum. We might even say that some collective goods, such as national defense, are essential for the peace and stability of society. Thus, had Hume considered the matter, he probably would have considered rules relating to paying for collective goods, in addition to the rules of justice and rules concerning promises, chastity and modesty, and polite behaviour. What Hume would have prescribed is that the artifices of politicians should be

directed at cultivating the sympathy for the public interest, or the sympathy with those who have the public interest at heart. Such a policy might yield better results than the present policy of coercion through the government's fiscal machinery. Economists and policy makers have much to learn from David Hume.

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1. Hume's Theory of Justice (Oxford: Clarendon Press, 1981). See particularly pages 72-6.

2. See for instance Richard A. Musgrave and Peggy B. Musgrave, Public Finance in Theory and Practice (New York: McGraw-Hill, 1973), particularly Chapter Three.

3. A good discussion of the problem of the free-rider can be found in C.V. Brown and P.M. Jackson, Public-Sector Economics (Oxford: Martin Robertson, 1982), Chapters Two, Three and Four.

4. John Rawls, A Theory of Justice (Oxford: University Press, 1971), page 7.

5. Harrison, op. cit., pages 28-9.